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SUBJECT: HELSINKI COMMISSION EXAMINES HUMAN
RIGHTS IN DIYARBAKIR, FINDS DIFFERENT
LENSES STILL IN PLACE

REF: A) ANKARA 486 B) 02 ANKARA 8881
 C) 02 ANKARA 6116 D) 02 ANKARA 8564
 E) 02 ANKARA 7290

1. (SBU) Summary: Two staffers from the U.S. Commission on Security and Cooperation in Europe (aka Helsinki Commission) traveled to Diyarbakir January 15-18 for meetings with GOT officials, human rights activists, and religious groups. Key agenda items included torture, language rights, and village return. (Staffers' discussions regarding religious freedom issues reported septel.) In all areas of concern, staffers noted gaps between reforms pledged and reforms implemented. End summary.

2. (U) The staffers - Chadwick W. Gore, Commission Staff Advisor and Secretary to the U.S. Delegation to the OSCE Parliamentary Assembly, and H. Knox Thames, Commission Staff Counsel - met in Diyarbakir January 15-18 with GOT officials, locally elected officials, and human rights activists in order to assess progress in implementation of human-rights reform legislation (Refs B - E).

Torture - Still a Problem

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3. (U) The number of terrorism-related arrests is down, and so is the incidence of torture, Gore and Thames were told in January 15 meetings with Hakki Uzun, Deputy Regional Governor for the former State of Emergency Region, and Sait Gurlek, Diyarbakir Province Chief Public Prosecutor. (Note: As the State of Emergency has been lifted, Uzun is now presiding over the closing down of his office. Saying he is under no particular deadline, he and his staff were in the process of filing, archiving, and handling administrative tasks. End note.)

4. (U) Gore and Thames met January 16 with Huseyin Nail Atay, a Deputy Governor of Diyarbakir Province. In this meeting, as in others with GOT officials, the staffers handed over a copy of a letter to PM Gul signed by Members of Congress from the U.S. Helsinki Commission. The letter contained praise for the new government's expressed commitments to human-rights reform while noting ongoing problems in that regard. Torture was at the top. Atay defended the GOT's recent record on torture as one of "great progress." He did not deny abuses had occurred, and do still occur, but commented that "at the individual level, government officials make mistakes, in the United States, too." He went on to state that the HADEP party's provincial chairman had recently admitted that there had been no cases of torture of late." (Note: We were not able to confirm this remark. End note.) The province had built a new prison - a very expensive undertaking. It met EU standards, he asserted.

5. (SBU) Gore and Thames met January 17 with a group of lawyers, physicians, and founding members of the Diyarbakir chapter of the Human Rights Foundation (HRF) to discuss torture. According to the HRF representatives, it was too early to tell whether recent legal reforms were having an effect on torture. After the raft of EU-inspired reforms, and after the lifting of the State of Emergency two months ago, there was now even less reason for

Turkish authorities to turn a blind eye to torture allegations, they reasoned. Nevertheless, they said, to date in Diyarbakir no police, security officials, or Jandarma have been brought to book. In 2002, the HRF received 80 new allegations of torture. (Note: That means 80 cases first brought to their attention in 2002, not 80 cases that occurred in 2002. End note.) How was it possible, they asked, that not a single torturer had been punished, even when subsequent medical examination can confirm physical injury? The staffers noted the instance of torture in Turkey was widely agreed to be decreasing, but asked the HRF about what it was seeing in its Diyarbakir office. The HRF members replied that the statistics could be tricky; even though torture may nowadays be less common, the number of cases actually being reported to the HRF was not decreasing. Cases from yesteryear are still popping up. Since 1999 there have been fewer detentions and arrests; however, the HRF claims, the people-in-custody/people-being-tortured ratio has not fundamentally changed. For 2002, the HRF provided the following statistics. Number of cases reported: 188. Number of cases reported that alleged political reasons for detention: 186. Number of cases reported that were males: 141. Female: 32. Children: 15. Number of cases reported that were acute: 32. Number of cases reported that were chronic: 156.

16. (SBU) In documenting the practice of torture, HRF members told the staffers they had observed that, as is widely known, practitioners had gotten more sophisticated. "Subtler" techniques, designed to leave no trace, had been devised. These include: hosing with cold water followed by exposure to cold weather or air-conditioning, use of blindfolds, painfully loud music, plastic bags to create breathlessness, applying gels before using electric shock, sand-filled bags instead of clubs for beatings, pointing of cocked weapons, and verbal threats up to and including death threats.

17. (SBU) A related risk for detained individuals - denial of access to lawyers - persists, according to HRF members, who described for the staffers a recent case in Diyarbakir province in which a large group of students was detained. The security official in charge at first denied access to a lawyer, apparently unaware that recent changes in Turkish legislation guarantee access within 48 hours. Access was granted, however, after HRF members provided copies of the text of the new legislation. After the lawyer had met with the students, however, the security director attempted to hold onto the lawyer's notes. (Note: The students had been arrested for conducting a protesting against the alleged enforced isolation in recent weeks of imprisoned PKK leader Abdullah Ocalan.)

18. (SBU) In summary, the HRF members said torture is difficult to eradicate in the region, and torturers continue to enjoy impunity, because the prevailing mind-set is that what is going on "is being done for the well-being of the State and the State accepts this as necessary." One will look in vain, they said, for examples of concrete steps taken by the State to police itself in this regard, that is, convictions of torturers, or even thorough investigation of allegations, or even unannounced inspections of detention centers. The HRF claims that in the past 17 years, although charges have sometimes been brought, not a single public employee has been convicted of torture in Diyarbakir province.

19. (SBU) The staffers also discussed torture January 17 with representatives of the Diyarbakir Chamber of Doctors and Physicians Treating Torture Victims. (Note: The Chamber is basically a roster of doctors who make themselves available to treat torture victims. End note.) Chamber representatives said recently reported torture techniques included exposure while naked to cold water and air conditioning, electric shock, and squeezing of the testicles. On a psychological level, noted the Chamber representatives, state authorities also know how to bring pressure to bear on patients. For example, it is common for law-enforcement officers to sit in the room while the doctor examines the patient, thereby creating intimidation. The authorities have also taken

action against certain doctors involved in treating torture victims. For example, two HRF doctors were recently reassigned from their position at a state-run hospital in Diyarbakir to smaller, outlying districts. (Note: A doctor is free to open a private-practice, but doctors in the public sector must serve where assigned. End note.) The two have repeatedly applied for reassignment but have been stuck in place. Other Diyarbakir doctors have suffered even more, serving prison sentences for having treated PKK members - wittingly or unwittingly. Upon release from prison, their ability to practice medicine has been curtailed.

10. (SBU) In a January 17 meeting the staffers asked Saban Erturk, Diyarbakir State Security Court (SSC) Chief Prosecutor, whether he had any current investigations underway that might lead to the prosecution of alleged torturers. He replied that the SSC did not handle torture cases; they were handled by the regular criminal courts. Erturk said changes in Turkish law (refs B and C) demonstrate that the Government was serious about ending the practice. "Any torturers will be accountable," he said. He welcomed the idea of unannounced visits to detention centers. When asked if the frequent discrepancy between statements given by detainees while in custody and statements given by detainees at trial might be attributable to torture, the Prosecutor said no. "They lie," he said. (Note: In the Turkish legal system, a defendant cannot be charged with perjury. End note.)

11. (SBU) The Chief Prosecutor praised the SSC system as being an elite system. (Note: He himself has 22 years experience as a prosecutor, and is now one of only seven Chief Prosecutors in the nation - arguably the one with the toughest circuit. He is also a former International Visitor Program grantee. End note.) He said the judges in the SSC system were first-rate and that 80 percent of the cases ended in conviction. In this way, he said, the SSCs are fulfilling their mission of protecting the Turkish people from terrorism. He commented that Americans often consider as "rights" certain activities that are explicitly prohibited by Turkish law, for example, questioning the indivisibility of the state or fomenting division along religious or Marxist grounds. He had been to America and admired its "vastness of freedom of expression," he said, but Americans must remember that "in this country thousands of people had been killed by terrorists and up in the mountains there were still hundreds of terrorists". (Note: The day before, January 16, in Lice in Diyarbakir Province, a clash between Turkish military and PKK elements had resulted in one death and five wounded on the military side and an undisclosed number of casualties on the PKK side. End note.)

Language Rights - Still Waiting

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12. (U) The staffers asked Diyarbakir Province Deputy Governor Atay whether broadcasting in Kurdish would begin any time soon. Atay replied, rather tangentially, that it was a mistake to consider Kurdish as a single language; there were several quite distinct dialects. The staffers said they were aware of that, but were asking an administrative question not a linguistic one. "In the course of time it will probably happen," Atay opined. Kurdish cassettes and videos now circulate freely, he added. The staffers expressed the view that most international observers had assumed, after the passage of the recent legislation, that broadcasts would begin in a matter of days or weeks. Again, Mr. Atay replied obliquely, saying there had been an experience with local Kurdish-language television, but it had turned out to be "separatist." This time control would be vested in TRT, the Turkish state television network. Private Kurdish-language television channels in the future were a possibility, he believed. In any case, the authorities have stopped trying to control the spread of satellite dishes; Kurds in Turkey have access to Kurdish-language programming from abroad.

13. (SBU) In a separate meeting, members of the Diyarbakir Bar Association told Poleconoff and FSN Pol Assistant that the government was not making

serious efforts to lift all obstacles to the use of Kurdish. They said the Bar Association has sued RTUK (Turkish Radio and Television Supreme Council) over this issue. They believe the implementing regulation does not meet the spirit, or the letter, of the reform legislation passed in Parliament. Some Bar Association members went further, and stated that the cynical intent of RTUK and the Turkish authorities was to placate European critics while actually using Kurdish-language broadcasting as a tool for further cultural assimilation. In this regard, they pointed out certain restrictions in the RTUK regulations (ref D) which, they said, undermined the spirit of the reform legislation. Concerning the use of Kurdish in classroom education, they ask, why should Kurds still be denied the kind of language-independence that was long ago granted to Greeks and Armenians by the 1923 Lausanne Treaty, especially since there are so few Greeks and Armenians left in Turkey? When asked about the practical day-to-day use of Kurdish in courtrooms, Bar Association members said that Turkish-Kurdish courtroom translation was haphazard, ad hoc, and at times denied. Those accused of a crime were not granted the opportunity to read the indictment in Kurdish.

Village Returns - Slow Going

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14. (SBU) The Turkish Red Crescent's Regional Director in Diyarbakir, Muzafer Karadede, argued that village return was of interest to the elderly and was not much sought after by young people. The villages have no jobs. Additionally, the loss/lack of infrastructure and the obliteration of the villages' former familial-communal support system make return less enticing. Karadede, an ophthalmologist who spent a good portion of his professional career in Istanbul, is from an old Diyarbakir family. He can hardly believe the transformation his city has undergone. On top of what might normally have been expected for rural-to-urban migration in a country like Turkey, the long fight against the PKK drove so many villagers into Diyarbakir city that he now estimates that more than 90 percent of the people living in the city were not born there. Not a single member of the Diyarbakir city council was born in Diyarbakir. In his view, given that the Turkish state never did much for peasants in the region's villages anyway, it was hardly surprising that not much was being done now. Karadede also asserted that the village guard system was now serving as a major factor in discouraging returns, and that the village guard system has taken on some of the characteristics of the region's old "aga" (feudal landlord) system, in which might makes right.

15. (SBU) The village guard system was raised by staffers Gore and Thames with Diyarbakir Deputy Governor Atay. Now that the PKK had been defeated, they asked, why was the village guard system not being dismantled and why were the guards themselves not being demobilized and disarmed? Atay began his response by noting that as far back as the "Village Administration Law" of 1924 there had been provisions for something similar in the region. Be that as it may, it was not now possible to eliminate the village guard system all at once. Village guards were on the state payroll and would not take well to being dropped from it. The GOT planned to reduce their number gradually, through attrition, by not appointing any new ones. Also, in the future, their duties may be changed, e.g. to janitors in schools. (Comment: The staffers expressed some incredulity that a village guard might want to trade in his gun for a broom. End comment.) To what degree, asked the staffers, was village return being thwarted by village guards squatting on others' land, intimidating, and using violence? The problem, replied Atay, was exaggerated. In the few cases where village guards had abused their authority, they had been arrested and dismissed. Sometimes what appeared as a case of village-guard violence had as its underlying cause a traditional blood feud. The bad example of some village guards, he said, should not be used to obscure the fact that "the village guards and the Army were part of a successful struggle for the territorial integrity of the country."

¶16. (U) Leaving aside the debate about alleged obstacles to return (village guard, paperwork, no jobs, no infrastructure, lack of government investment), the staffers tried to ascertain how many villages in Diyarbakir province had in fact been re-opened for return and how many had actually seen returns. The only specific numbers came from the office of Deputy Governor Atay: 90 villages ("koy") and 303 hamlets ("mezra") evacuated during the conflict, of which 48 villages and 58 hamlets had seen returns. Twelve villages had had requests for return that were denied -- on security grounds. As for the remaining 275 villages/hamlets, there had so far been no request. (Note: To place this number in context, it is estimated that more than 3,200 villages or hamlets in southeastern Turkey were evacuated during the course of the struggle between Turkish forces and the PKK. End note.)

¶17. (SBU) The staffers met with displaced villagers. The Deputy Governor's office arranged for the staffers to visit Saklatkoy, a village outside Diyarbakir to which return had been approved and in fact achieved. The village had electricity but no plumbing. Many structures were damaged, but many have been repaired, and even some new ones have been built, including a new primary school building. The villager headman (muhtar), a man with three wives and 23 children, expressed appreciation for the chance to return. Other villagers echoed this sentiment in their conversations with Gore and Thames, which took place with a representative of the Turkish government present. Their only fear, they said, was that the PKK might come back. Upon being driven back to Diyarbakir, the staffers had a chance to meet with a family that had not managed to return to its village (Koprulu, Mardin Province). The head of household was an illiterate itinerant laborer with 10 children. He claimed to have been denied permission to work as a pushcart peddler in Diyarbakir, and therefore leaves home for months at a time to live with his brother and work on construction sites in Izmir, some 700 miles away. He said he had unsuccessfully applied to return with his family to his village. He was told that he would be allowed to return -- if he would agree to serve in the village guard. He refused: "It's no good; brothers are going to kill brothers."

¶18. (SBU) Comment: It would appear that staffers Gore and Thames came away from Diyarbakir somewhat underwhelmed by the degree of actual implementation of human-rights reforms undertaken by the Turkish government. As they explained to more than one interlocutor, the international community expected that reform efforts designed to make torturers accountable, ease language restrictions, and promote village returns would bear fruit in a matter of days/weeks, not months/years. Their report to the Congress is likely to conclude that human-reform pledges of the Turkish government still await implementation on the ground. End comment.

¶19. (U) Gore and Thames did not have an opportunity to clear this message.
HOLTZ